

**MISSOURI DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES- PROCUREMENT
DISTRICT 6, 2309 BARRETT STATION RD,
BALLWIN, MO 63021**

REQUEST NO.	SL13-063-RW
DATE	November 13, 2012
PAGE NO.	1
NO. OF PAGES	25

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL
BE RECEIVED AT THIS OFFICE UNTIL

10:00 a.m., Local Time, November 29, 2012

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING
THE FOLLOWING SUPPLIES OR SERVICES.

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF
TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered

THE BIDDER MUST SIGN AND RETURN BEFORE DATE AND TIME SET FOR OPENING.

BUYER: _Teresa(Terri) Mount
BUYER EMAIL:
Teresa.Mount@modot.mo.gov

BUYER TELEPHONE: 314-301-1431
BUYER FAX:
573-526-0016

SUPPLIES OR SERVICES

**Crack Seal Route 67, from Swan Road to North of I-70 Overpass, including accel and decel lanes on
the main line. We will exclude 1/10th of a mile at Olive Blvd and ramps**

COMPLETION DATE: January 31, 2013 or Before

Bidders are encouraged to obtain minority business enterprise (MBE) and women business
enterprise (WBE) participation in this work through the use of subcontractors, suppliers,
joint ventures, or other arrangements that afford meaningful participation for M/WBEs.
Bidders are encouraged to obtain 10% MBE and 5% WBE participation.

Components of Agreement: The Agreement between MHTC and the successful Bidder shall consist of:
the RFB and any written amendments thereto, the "Standard Bid/Proposal Provisions, General Terms and
Conditions and Special Terms and Conditions" that are attached to this RFB, the bid submitted by the
Bidder in response to the RFB and the post-award contract agreement signed between the parties.
However, MHTC reserves the right to clarify any relationship in writing and such written clarification shall
govern in case of conflict with the applicable requirements stated in the RFB or the Bidder's bid. The Bidder
is cautioned that its bid shall be subject to acceptance by MHTC without further clarification.

Return sealed bid to the address shown at the top of this page.

Note to Respondent: A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The
compliance to conduct business in the state shall include but may not be limited to: Registration of business name, vendors MUST submit a
bid/proposal that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. The
Missouri Department of Transportation reserves the right to reject any or all bids, and to accept or reject any items thereon and to waive
technicalities. All bids must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature
must be fulfilled. No bids by telephone, telegram, or telefax, will be accepted.

*In compliance with the above invitation for bids, and subject to all conditions thereof, the undersigned offer and agrees to furnish and deliver any or all
the items on which prices were quoted within 20 days after receipt of notification.*

Date: _____
Telephone Number: _____
Firm Address: _____
E-Mail: _____

Firm Name: _____
Responsible Officer Title: _____
Signature: _____

INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

- 1.1.1 This Request For Bid seeks bids from qualified organizations to Crack Seal a specific area (67) in both directions in St. Louis County.
- 1.1.2 Limits of this project are on 67, from Swan Rd. in St. Louis County to North of I-70, St. Louis County including accel and decel lanes on the main line. We will exclude 1/10th of a mile at Olive Blvd and ramps

Each bid must be mailed or hand delivered in a sealed envelope to Ms Teresa (Terri) Mount, Procurement Unit, Operations Complex, 2309 Barrett Station rd., Ballwin, Mo. 63021.

All questions regarding the RFB shall be submitted to Ms.Teresa (Terri) Mount. Bids must be returned to the office of Ms Mount no later **than 10:00 a.m., Local Time, November 29, 2012.**

RFB Coordinator:

**MsTeresa (Terri) Mount (Title) Sr. Procurement Agent
Missouri Department of Transportation
2309 Barrett Station Road, Ballwin, MO. 63021**

**PHONE: 314-301-1431
FAX: 573-522-0016
EMAIL: Teresa.Mount@modot.mo.gov**

1.2 General Information:

This document constitutes an invitation for competitive, sealed bids for the procurement of services to crack seal a specific area on Route 67 in St. Louis County in accordance with terms as specified in these provisions.

1.2.1 Organization - This document, referred to as a Request for Bid (RFB), is divided into the following parts:

- 1) Introduction and General Information
- 2) Scope of Work-
- 3) Bid Submission
- 4) Pricing Page(s)
- (5) Attachment(s)
- (6) Terms and Conditions

1.2.2 This document contains requirements related to the newly revised statute.

Effective January 1, 2009 and pursuant to RSMo 285.530 (1), no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. Additional specific information is included herein.

<http://www.moga.mo.gov/statutes/C200-299/2850000530.HTM>

E-Verify is an example of a federal work authorization program. For vendors that are not already enrolled and participating in a federal work authorization program, E-Verify is available at:

http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm

2.0 SCOPE OF WORK

SL13-063-RW

2.1 General Requirements:

- 2.1.1 The contractor shall crack seal the specific area on Route 67 as as specified for the Missouri Highway and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), in accordance with the provisions and requirements stated herein.
- 2.1.2 The contractor shall provide all deliverables/services to the sole satisfaction of MoDOT.
- 2.1.3 Unless otherwise specified herein, the contractor shall furnish all material, labor, facilities, equipment, and supplies necessary to provide the deliverables/services required herein.
- 2.1.4 The contractor shall wear proper Personnal Protective Equipment (PPE) while working on State right of way.
- 2.1.5 If Modot elects to have the contractor supply traffic control, then the contractor needs to inform the Traffic Management Center (TMC), at (314)-275-1522 when the lane is closed and again when open.

A. Purpose and Work Location

The purpose of this project is to crack seal Route 67 in both directions from Swan Road to North of I-70, including accel and decel lanes on the main line. We will exclude 1/10th of a mile at Olive Blvd and ramps. This is to include all cracks within the travelled way. The area comprises approximately 10.35 center line miles.

B. Work Description

2.0 Material. All material shall be in accordance with the following. The Material used must conform to Section 413.50 in the Missouri Standard specifications. Asphalt Rubber Plus, manufactured by Crafc0, currently used, or Engineer approved equivalent.

2.0 Route out longitudinal joint , Utilize heat lance w/ forced air to blow out crack/seam. Seal transverse joints.

2.1 The work may **not** be done when tempetures are below **35 degrees**.

2.2 The work may **not** be done in the months of June, July and August. However, the work must be completed no later than January 31, 2013.

2.3 In addition to the requirements described, a written request for qualification shall be sent by the manufacturer to Construction and Materials with the following information:

(a) Brand name of the product.

(b) Certification that the material meets this specification and is intended for use as described.

(c) Specific installation instructions.

2.3 Work may only be performed during off peak hours.

(a) North bound 9:00 am to 3:00 pm

(b) South bound 9:00 am to 3:00 pm

3.0 Work Hour Restrictions.

3.1 There are six major holiday periods per year: Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and New Years Day. All lanes shall be scheduled to be open to traffic during these holiday periods, from 12:00 noon on the last working day proceeding the holiday until 9:00 a.m. on the first working day subsequent to the holiday. There may be other events of regional significance, such as specific sporting events (i.e. St. Louis Cardinals home games, St Louis Blues, St Louis Rams, parades, marathons, concerts, and other major St Louis or Metro East events, etc.). The contractor shall not start work on 100 designated areas, until the engineer will advise the contractor of any such events and how they are to be handled. Restricted periods for special events shall be determined by the engineer.

3.2 The contractor shall not perform any construction operation on the roadway during restricted periods, holiday periods or other special events, whether specified in the contract documents or not, as exact dates and times of all special events is unknown at the time this document is published. With the engineer's consent, the contractor may commence work as early as one hour after the official finish time of a St. Louis sporting event. In this situation, no traffic control for a lane drop shall be set up by the contractor prior to this time.

. C. Emergency Provisions and Incident Management

1.0 The contractor shall have communication equipment on the construction site or immediate access to other communication systems to request assistance from the police or other emergency agencies for incident management. In case of traffic accidents or the need for police to direct or restore traffic flow through the job site, the contractor shall notify police or other emergency agencies immediately as needed. The area engineer's office shall also be notified when the contractor requests emergency assistance.

2.0 No direct pay will be made to the contractor to recover the cost of the communication equipment, labor, materials or time required to fulfill the above provisions.

D. Temporary Traffic Control

1.0 Description. All work necessary to maintain safe and efficient traffic flow through the work areas may be provided by the contractor at MoDOT's discretion. This will include furnishing, relocating, and removing temporary traffic control devices, truck mounted attenuators and equipment, and the removal and relocation or covering and uncovering of existing signs and other traffic control devices in accordance with the contract documents or as directed by the engineer.

2.0 Work requirements. Work shall be in accordance with the Missouri Standard Specification for Highway Construction Sec 616, Sec 612, and the contract plans. All traffic control shall be provided by the contractor as shown in Exhibit C of the contract documents. Standard MUTCD compliant signs, channelizers, flashing arrow panels, etc.. shall be used.

3.0 Basis of Payment.

3.1 Payments will be made as follows:

(a) Upon acceptance of completed project per the terms and conditions of this RFB per approval of the engineer upon inspection.

- (b) When the engineer has accepted the contract for maintenance in accordance with Sec 105, the contract price for the item of temporary traffic control will be paid.

3.1.2 For the purposes of this provision, the term “original contract price” will be construed as the total dollar value of the construction items (excluding temporary traffic control) of the original contract.

3.2 Temporary traffic control will be paid for at the contract lump sum price. MoDOT reserves the right to provide Traffic Control at their discretion. In the event it is determined by MoDOT that the Contractor should provide Temporary Traffic Control the following requirements shall apply. No direct payment will be made for the following:

- (a) Incidental items necessary to complete the work, unless specifically provided as a pay item in the contract.
- (b) Installing, operating, maintaining, cleaning, repairing, removing or replacing traffic control devices.
- (c) Covering and uncovering existing signs and other traffic control devices.
- (d) Relocating temporary traffic control devices, including permanent traffic control devices temporarily relocated, unless specifically included as a pay item in the contract.
- (e) Providing channelizers.
- (f) Worker apparel.
- (g) Flaggers, pilot vehicles, and appurtenances at flagging stations.
- (h) Furnishing, installing, operating, maintaining, and removing construction-related vehicle and equipment lighting.
- (i) Furnishing and placing Changeable Message Signs

E. Liquidated Damage Requirements :

- 1.0 The contractor shall agree and understand that crack sealing the designated area in accordance with the requirements stated herein is considered critical to the efficient operations of MoDOT. However, since the amount of actual damages would be difficult to establish in the event the contractor fails to comply with the contractual requirements, the contractor shall agree and understand that the amount identified below as liquidated damages shall be reasonable and fair under the circumstances.
- 2.0 If the contractor does not complete the entirety of work outlined in this contract by January 31, 2013 or before; from Notice to Proceed, the Commission, the traveling public, and state and local police and governmental authorities will be damaged in various ways, including but not limited to, increased construction administration cost, potential liability, traffic and traffic flow regulation cost, traffic congestion and motorist delay, with its resulting cost to the traveling public. These damages are not reasonably capable of being computed or quantified. Therefore, the contractor will be charged with liquidated damages specified in the amount of **\$500.00 (Five Hundred)** dollars per day for each full day that the job is not complete and open to traffic in excess of the limitation as specified elsewhere in this special provision. It shall be the responsibility of the engineer to determine the quantity of excess closure time.
 - a. The said liquidated damages specified will be assessed regardless if whether it would otherwise be charged as liquidated damages under the Missouri Standard Specification for Highway Construction, as amended elsewhere in this contract. Days that the Department has suspended the contractor’s work will not be assessed liquidated damages.

- b. The contractor shall further agree and understand that such liquidated damages shall either be deducted from the total amount due the contractor or paid by the contractor as a direct payment to MoDOT, at the sole discretion of MoDOT.
- c. The contractor shall agree and understand that the liquidated damages described herein shall not be construed as a penalty.
 - 1. The contractor shall agree and understand that all assessments of liquidated damages shall be within the discretion of MoDOT and shall be in addition to, not in lieu of, the rights of the MoDOT to pursue other appropriate remedies.

F. Invoicing and Payment Requirements:

- 1.0 The contractor shall submit an itemized invoice to the following address after the completion of deliverables, as specified herein.

Missouri Department of Transportation
Business & Benefits
1590 Woodlake
Chesterfield, MO. 63017-5712

- 1.1 Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- 1.2 The contractor shall be paid in accordance with the firm, fixed prices stated on the pricing page(s) of this document after completion of deliverables specified herein and acceptance by MoDOT.
- 1.3 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- 2.0 MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Federal Excise Tax Exemption Certificate will be furnished to the successful bidder upon request.
- 2.1 Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- 2.2 The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the contractor's expense.
- 2.3 Notarized weekly payroll documentation for prime and subcontractors will be required from start to finish of this contract showing compliance with prevailing wage rates. Lien Waivers from materials suppliers shall also be provided. Additional documents shall be furnished as required by other provisions in the bid package.

- 2.4 Payment shall be made per contractor invoice upon satisfactory completion of all work items and the receipt of required documentation

G. Other Contractual Requirements:

- 1.0 **RSMo 285.530** - The contractor understands and agrees that by entering into a contractual agreement with MoDOT, they certify the following:
- a. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes, but is not limited to, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
 - b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state.
 - c. The contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
 - d. In addition, the contractor shall maintain enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services included herein.
- 2.0 Prevailing Wage:
- a. **General Wage Order # 56 to apply, St. Louis City, St. Louis County, MO.**

3.0 Construction Safety Program:

Missouri law, 292.675 RSMo, requires the awarded Contractor and its subcontractor(s) to provide a ten-hour occupational safety and health administration (OSHA) construction safety program (or a similar program approved by the Missouri Department of Labor and Industrial Relations as a qualified substitute) for their on-site employees (laborers, workmen, drivers, equipment operators, and craftsmen) who have not previously completed such a program and are directly engaged in actual construction of the improvement (or working at a nearby or adjacent facility used for construction of the improvement). The Contractor and its subcontractor(s) shall require all such employees to complete this ten-hour program, pursuant to 292.675 RSMo, unless they hold documentation on their prior completion of said program. Penalties for non-compliance include Contractor forfeiture to the Commission in the amount of \$2,500, plus \$100 per contractor and subcontractor employee for each calendar day such employee is employed beyond the elapsed time period for required program completion under 292.675 RSMo.

4.0 Insurance Requirements:

The Contractor shall maintain or cause to be maintained at Contractor's own expense commercial general liability, automobile liability, worker's compensation insurance against negligent acts, errors or omissions of the Contractor, or its subcontractors and anyone directly or indirectly employed by any of them. Any insurance policy required as specified in this Section shall be

written by a company that is licensed and authorized to issue such insurance in the state of Missouri and shall provide insurance coverage for not less than the following limits of liability:

- 1) General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- 2) Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- 3) Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

Upon request from the Commission, the Contractor shall provide the Commission with certificates of insurance evidencing the required coverage and that such insurance is in effect.

3.0 BID SUBMISSION

Bid Submission Information:

- 3.1.1 Submit completed Contractor Questionnaire with attachments not later than seven (7) days prior to the date and hour of the bid opening. See Sec 102.2 of the Missouri Standard Specifications for Highway Construction, and Rule 7 CSR 10-15.900, "Prequalifications to Bid of Certain Contractors". Questionnaire and Contact information are provided on MoDOT's website at <http://www.modot.org/business/BecomeAMoDOTPrimeContractor.htm>
- 3.1.2 All bids must be received in a sealed envelope clearly marked **"SL13-063-RW Crack Sealing"**.
- 3.1.3 All bids must be received at the following address no later than **November 29, 2012 at 10:00 a.m., Local Time**.

The Missouri Department of Transportation
Procurement Division
Attn: Teresa (Terri Mount)
2309 Barrett Station Rd.
Ballwin, MO. 63021

- 3.1.4 The bidder may withdraw, modify or correct his bid after it has been deposited with the Department provided such request is submitted in writing and received at the location designated for the bid opening prior to the time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly. No bid may be modified after the time specified for the opening of bids.
- 3.1.5 Open Competition / Request For Bid Document:
 - a. It shall be the bidder's responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.
 - b. Every attempt shall be made to ensure that the bidder receives an adequate and prompt response. However, in order to maintain a fair and equitable bid process, all bidders will be advised, via the issuance of an amendment to the RFB, of any relevant or pertinent information related to the procurement. Therefore, bidders are advised that unless specified elsewhere in the RFB, any questions received less than three (3) working days prior to the RFB opening date may not be answered.
 - c. Bidders are cautioned that the only official position of the MoDOT is that which is issued by MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
 - d. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- 3.1.6 Pursuant to 285.530 RSMo, the bidder must affirm enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested herein by:
 - a. Submitting a completed Signature and Identity of Bidder form, attached herein,

- b. Submitting a completed, notarized copy of the applicable portion of Exhibit A, WORKER ELIGIBILITY VERIFICATION AFFIDAVIT or APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP, and

3.1.7 Proposal/Bid Guaranty/Contract Bond:

- a. Each bid shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue – Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred (100%) of the contract price.
- b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the MoDOT as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
- c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder(s) will be retained until the contract is executed and a satisfactory Performance and Payment (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

3.1.8 Bids will be reviewed to determine if the bid complies with the mandatory requirements, and to determine the lowest and best responsible bid.

3.1.9 Cost Determination - The low bid shall be determined by adding all of the firm, fixed prices on the pricing page for the original contract period to obtain a total price.

3.1.10 Contract Award – The contract will be awarded to the lowest responsible bidder determined as specified above.

- a. Award of this bid will be made on an “All Or Nothing” basis using the “lowest and best responsible” principle of award.
- b. Notification of award will be at the time the tabulation is posted to the Internet. It is the sole responsibility for all bidders to check the website for bid results

4. PRICING PAGE SL13-003-RW

4.1 The bidder shall provide a firm, fixed price in the table below for the original contract period for providing the deliverables/services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required deliverables/services shall be included in the prices stated below.

Inlaid Pavement Marker Quantities					
Item #	Description	U/M	QTY	COST U/M	EXTENDED COST
001	Route out longitudinal joint,heat lance w/use of forced air to blow out crack/seam,seal transverse joint.	Lump sum	1.00		
002	Asphalt Rubber Plus or Engineer Approved Equivalent, Indicate brand name/manufacturer:	LB	Estimated usage .25 lb per LF		
003	Temporary Traffic Control, <i>(MoDOT reserves the right to provide Traffic control at their discretion)</i>	Lump Sum	1.00		
004	TOTAL EXTENDED COST				

All items and materials used for this project shall be in accordance with the applicable portions of the 2011 Missouri Standard Specification Book for Highway construction per Scope of Work.

COMPANY: _____ **DATE;** _____

SIGNATURE: _____

PRINTED NAME/ TITLE: _____

Attachment I
PREFERENCE IN PURCHASING PRODUCTS

DATE: _____

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

All vendors submitting a bid/quotation must furnish ALL information requested below.

FOR CORPORATIONS:

State in which incorporated: _____
FOR OTHERS:

State of domicile: _____
FOR ALL VENDORS:

List address of Missouri offices or places of business:

THIS SECTION MUST BE COMPLETED AND SIGNED:

FIRM NAME: _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

BY (signature required): _____

Federal Tax I.D. #: _____ **if no Federal Tax I.D. # - list Social Security #:** _____

NOTE: For bid to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

Attachment II
MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34.359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.

- [] If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.
- [] If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:
- _____
- _____
- [] If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

- [] The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers): _____
- [] The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): _____
- _____

CERTIFICATION

By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.

The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.

Attachment III

SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the proposal of a

() sole individual

() partnership

() joint venture

() corporation, incorporated under laws of state of _____

Dated _____.

Name of individual, all partners,
or joint ventures:

Address of each:

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show
this name above in addition
to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

Secretary

Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the Proposal shall be executed in the legal name of the individual, partners, joint ventures, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of

State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and.

Attachment IV
WORKER ELIGIBILITY VERIFICATION AFFIDAVIT FOR ALL
MHTC/MODOT CONTRACT AGREEMENTS IN EXCESS OF \$5,000
(for joint ventures, a separate affidavit is required for each business entity)

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be a person whose name is subscribed to this affidavit, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities:

I am the _____ of _____, and I am duly authorized, directed, and/or empowered to act officially and properly on behalf of this business entity. I hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, and the aforementioned business entity shall participate in said program with respect to all employees working in connection to work under the within state contract agreement with the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo. In addition, I hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection to work under the within state contract agreement with MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3). I am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

I acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

Affiant Signature

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My commission expires:

[documentation of enrollment/participation in a federal work authorization program attached]

APPLICANT AFFIDAVIT FOR SOLE-PROPRIETORSHIP OR PARTNERSHIP
(a separate affidavit is required for each owner and general partner) *(if applicable)*

STATE OF _____)
) ss

COUNTY OF _____)

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instruments, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 208.009, RSMo, for failure to provide affirmative proof of lawful presence in the United States of America:

☐ I am the _____ of _____, which is applying for a
owner or partner public benefit (grant, contract, and/or loan) administered/provided by the Missouri Highways and Transportation Commission (MHTC), acting by and through the Missouri Department of Transportation (MoDOT). I am classified by the United States of America as: (check the applicable box) a
United States citizen. an alien lawfully admitted for permanent residence.

I am aware that Missouri law provides that any person who obtains any public benefit by means of a willfully false statement or representation, or by willful concealment or failure to report any fact or event required to be reported, or by other fraudulent device, shall be guilty of the crime of stealing pursuant to Section 570.030, RSMo, which is a Class C felony for stolen public benefits valued between \$500 and \$25,000 (punishable by a term of imprisonment not to exceed 7 years and/or a fine not more than \$5,000 – Sections 558.011 and 560.011, RSMo), and is a Class B felony for stolen public benefits valued at \$25,000 or more (punishable by a term of imprisonment not less than 5 years and not to exceed 15 years – Section 558.011, RSMo).

I recognize that, upon proper submission of this sworn affidavit, I will only be eligible for temporary public benefits until such time as my lawful presence in the United States is determined, or as otherwise provided by Section 208.009, RSMo.

I understand that Missouri law requires MHTC/MoDOT to provide assistance in obtaining appropriate documentation to prove citizenship or lawful presence in the United States, and I agree to submit any requests for such assistance to MHTC/MoDOT in writing.

I acknowledge that I am signing this affidavit as a free act and deed and not under duress.

Affiant Signature

Affiant's Social Security Number or
Applicable Federal Identification Number

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My commission expires:

Attachment V SL13-002-RW

(Revised 08/96)

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS, that we _____

as principal and _____

as surety, are held and firmly bound unto the state of Missouri (acting by and through the Missouri Highways and Transportation Commission) in the penal sum of _____

Dollars (\$) to be paid to the commission to be credited to the state road fund, the principal and surety binding themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this _____

THE CONDITION OF THIS OBLIGATION is such that

WHEREAS the principal is submitting herewith a bid to the commission on route(s) _____

in County(ies),

project (s) _____

for construction or improvement of state highway as set out in said bid;

NOW THEREFORE, if the commission shall accept the bid of the principal and if the principal shall properly execute and deliver to the commission the contract, contract bond, and evidence of insurance coverage in compliance with the requirements of the bid, the specifications, and the provisions of section 227.100 RSMo, to the satisfaction of the commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said principal shall, in the judgment of the commission, fail to comply with any requirement as set forth in the preceding paragraph, then the state of Missouri, acting by and through the commission, shall immediately and forthwith be entitled to recover the full penal sum above set out, together with court costs, attorney's fees, and any other expense of recovery.

The principal and surety hereby certify that the document is the original or a verbatim copy of the bid bond form furnished by the Commission, in accordance with Sec 102.9 of the Missouri Standard Specifications for Highway Construction.

Principal

SEAL By _____

Signature

Surety

SEAL By _____

Signature of Attorney in Fact

NOTE: This bond must be executed by the principal, and by a corporate surety authorized to conduct surety business in the state of Missouri.

Attachment VI

MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

Definitions:

Service-Disabled Veteran is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

Service-Disabled Veteran Business is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If a bidder meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the bidder **must** provide the following with the bid in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable:

- a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the bidder's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the bidder was in, stating that the bidder has a service-connected disability rating ranging from 0 to 100% disability; and
- b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the bidder's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

Veteran Information

Service-Disabled Veteran's Name, (Please Print)

Business Information

Service-Disabled Veteran Business Name

Service-Disabled Veteran's Signature

Missouri Address of Service-Disabled Veteran
Business

STANDARD SOLICITATION PROVISIONS

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeree and must be adhered to. If time varies on different items, the Bidder/Offeree shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeree will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted.
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

GENERAL TERMS AND CONDITIONS

General Performance

- a. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.
- b. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

Deliveries

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

Nondiscrimination

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
 - 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
 - ii. cancellation, termination or suspension of the contract, in whole or in part.

Contract/Purchase Order

- a. By submitting a bid/quote/proposal, the Bidder/Offeree agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

Subcontracting

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise

disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.

- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the production and delivery of the contracted work and the completion of the work within the specified time.
- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

Invoicing and Payment

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request if applicable.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

Applicable Laws and Regulations

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
 - b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

Executive Order

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6th) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
- 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
- 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
- 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Preferences

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.

- 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
- 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.
 - 1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.
- d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

Remedies and Rights

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.
- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Cancellation of Contract

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

Bankruptcy or Insolvency

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

Inventions, Patents, and Copyrights

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

Inspection and Acceptance

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

Warranty

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

Status of Independent Contractor

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

Indemnification

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

SPECIAL TERMS AND CONDITIONS

The Contractor shall maintain or cause to be maintained at Contractor's own expense commercial general liability, automobile liability, worker's compensation insurance against negligent acts, errors or omissions of the Contractor, or its subcontractors and anyone directly or indirectly employed by any of them. Any insurance policy required as specified in this Section shall be written by a company that is licensed and authorized to issue such insurance in the state of Missouri and shall provide insurance coverage for not less than the following limits of liability:

- a. General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- b. Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- c. Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

Upon request from the Commission, the Contractor shall provide the Commission with certificates of insurance evidencing the required coverage and that such insurance is in effect.

Required Specifications

- a. The material to be supplied under the contract will comply with the quality and gradation requirements of the **Missouri Standard Specifications for Highway Construction, Edition of 2004**, and any revisions thereto, unless modified by these specifications.

Information and Reports

- a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

Permits, Licenses and Safety Issues

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Contractor will comply with local laws involving safety in the prosecution of the work.

Failure to Execute Contract

- a. Failure to execute the contract and file acceptable performance payment (Contract Bond) or cashier's check, bank money order or certified check within **15 days** after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

Notice to Proceed

- a. Within **30 days** after the execution of the contract, a **"Notice to Proceed"** will be issued by the Department. A purchase order will be attached to the "Notice to Proceed," which will specify the date or dates that the Contractor can start delivery, roadway or stockpile delivery and will also include the completion dates. These dates will be in accordance with the dates shown in the proposal.

Delivery – Additional Requirements

- a. The following days shall be construed as **official holidays** under the terms of the contract:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

- b. When any of the above **holidays falls** on a **Sunday**, the holiday will be observed on the following **Monday**; when any of the above **holidays falls** on a **Saturday**, the **holiday** will be observed on the immediately preceding **Friday**.

Temporary Suspension of Work

- a. The **District Engineer** shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to the Department or for failure on the part of the Contractor to comply with any of the provisions of the Contract.
- b. If the Department suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. The Department may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.
- c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within **30 Days** after the claimed cause for the delay has ceased to exist.

Cancellation of Contract

- a. If the Contractor/supplier fails to carry out the performance of the work with sufficient workmen and equipment to insure the completion of the delivery within the time specified or becomes insolvent or is adjudicated a bankrupt or commits any act of bankruptcy or insolvency or allows any final judgment to stand against him for a period of ten (10) days, the Missouri Department of Transportation may give notice in writing by registered mail to the Contractor/supplier and the surety of such delay, neglect or default.
- b. If, within ten (10) days after such notice the Contractor/supplier does not proceed to remedy to the satisfaction of the Department's representatives the faults specified in said notice, or the surety does not proceed to take over the deliveries, the Department shall have full power and authority, without impairing the obligation of the Contractor/supplier under the contract or the surety under the bond, to take over the completion of the work and arrange for the shipment of any materials necessary to complete the work and the Contractor/supplier and the surety will be responsible for any additional costs incurred by the Department in obtaining the completion of the deliveries.

Environmental Issues

Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.

The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.

Prohibition Of Employment Of Unauthorized Aliens:

- a. Pursuant to RSMo 285.530 (1), no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall

sign an affidavit affirming that it does not knowingly employ any person who is unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)] A copy of the affidavit referenced above is provided within this document.

E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For vendors that are not already enrolled and participating in a federal work authorization program, E-Verify is available at http://www.dhs.gov/xprevprot/programs/qc_1185221678150.shtm.